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SEP 10 2010

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CLERK
United States Bankruptcy Court
San Jose, California

1 YOLANDA A. RUIZ
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3 San Jose, CA 95121
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7 Debtor

UNITED STATES BANKRUPCY COURT
NORTHERN DISTRICT OF CALIFORNIA

8
9 In Re:
10 RUIZ, YOLANDA
11 Debtor(s)
12) Case No.: 09-59281
13)
14) MOTION FOR ORDER ALLOWING DEBTOR TO SELL
15) RESIDENTIAL REAL PROPERTY, MOTION TO EMPLOY
16) THE BROKER AND ALLOW BROKER'S COMPENSATION
17) (2161 Caleb Court, San Jose, CA 95121)
18) DATE: September 28, 2010
19) TIME: 1:15 PM
20) CRTRM: 3020
21)
22)
23)

24 MOVANT, YOLANDA ANDRADE RUIZ (also referred to as "Debtor"):
25
26 1. Yolanda Andrade Ruiz caused to be filed a Voluntary Petition under Chapter 13
27 on October 28, 2009 (herein "the Petition date").
28
29 2. Among the assets of their bankruptcy estate at the time of filing of the
30 Voluntary Petition was a residence located at 2161 Caleb Court, San Jose, CA
31 95121 (hereinafter referred to as the "Real Property").
32
33 3. At the time of filing the Chapter 13 case, the Real Property was encumbered by
34 a first deed of trust due and owing to Bank of America Home Loans. The balance
35 owing on the principal, as of the filing date of this Motion, with post-
36 petition interest compounding, is approximately \$626,995.05.
37
38 4. The Real Property is also encumbered by a second lien, also due and owing to
39 Bank of America Home Loans, in the amount of \$67,689.00, approximately. (See
40 Preliminary Title Report, dated _____, attached hereto as Exhibit A, and
41 incorporated herein).
42
43 MOTION FOR ORDER ALLOWING DEBTOR TO SELL RESIDENTIAL REAL PROPERTY, MOTION TO EMPLOY
44 THE BROKER AND ALLOW BROKER'S COMPENSATION

5. Although the Debtor has yet to receive an offer for the purchase of the Real Property, the value of the Real Property is believed to be approximately \$427,836, requiring the approval of a short sale, both by Bank of America Home Loans, and by the Chapter 13 Trustee.

6. The proceeds from the sale shall be used to partially satisfy the amount due and owing to the holder of the first deed of trust, Bank of America Home Loans, and the normal and customary closing costs, real estate commissions, and any demand of the Chapter 13 Trustee.

7. As a condition of the sale of the Property, the title company used by the Debtor shall comply with and satisfy the escrow demand of Devin Derham-Burk, the Chapter 13 Trustee. If the Chapter 13 Trustee does not intend to submit a demand, she shall notify the escrow agent in writing. Per her demand, the Trustee shall be the disbursing agent on Proofs of Claim relating to this case, filed with the clerk's office of the Bankruptcy Court. The Trustee shall take her statutory fees on disbursements made by her in connection with this transaction whether or not the transaction connected closes prior to confirmation of the Plan.

8. Debtor hereby moves this Court for an Order authorizing permission to sell the real property and distribute the proceeds as set forth herein.

MOTION TO EMPLOY REAL ESTATE AGENT AND ALLOW BROKER'S COMMISSION

9. Debtor signed an exclusive listing agreement with real estate broker, Ponciano Alvarez, of "New Bay Realty" (hereinafter referred to as "Debtor's Agent").

10. Proceeds from the sale include real estate commissions of 3.0% for Debtor's Agent, and 3.0% to Buyer's Agent.

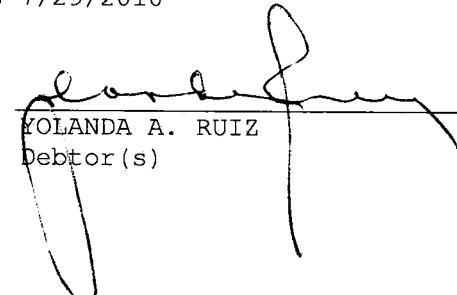
WHEREFORE, Debtor by and through her attorney of record, prays for an order of this Court as follows:

1. Authorizing the sale of the real property commonly known as 2161 Caleb Court, San Jose, CA 95121 upon the conditions and terms as set forth herein

MOTION FOR ORDER ALLOWING DEBTOR TO SELL RESIDENTIAL REAL PROPERTY, MOTION TO EMPLOY
THE BROKER AND ALLOW BROKER'S COMPENSATION

1 2. For an Order authorizing employment of Ponciano Alvarez of New Bay Realty
2 for services as Debtor's broker for the sale of the real property, and
3 authorizing the broker's fee of three percent (3.0%).
4 3. For such further order from the Court may be just and appropriate.

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7 Dated this 7/29/2010
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YOLANDA A. RUIZ
Debtor(s)

**MOTION FOR ORDER ALLOWING DEBTOR TO SELL RESIDENTIAL REAL PROPERTY, MOTION TO EMPLOY
THE BROKER AND ALLOW BROKER'S COMPENSATION**

EXHIBIT A

ATTACHMENT TO MOTION TO SELL REAL PROPERTY, MOTION TO EMPLOY, AND
ALLOW BROKER'S COMPENSATION

In Re: YOLANDA ANDRADE RUIZ, CASE NO. 09-59281

MOTION FOR ORDER ALLOWING DEBTOR TO SELL RESIDENTIAL REAL PROPERTY, MOTION TO EMPLOY
THE BROKER AND ALLOW BROKER'S COMPENSATION